

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION**

**The Connor Group, A Real Estate
Investment Firm, LLC**
10510 Springboro Pike
Miamisburg, OH 45342,

Plaintiff,

V.

Heather Faulkner
1236 Berna Lane
Kettering, OH 45429,

Defendant.

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: Case No.:

: Judge:

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VERIFIED COMPLAINT

(INJUNCTIVE RELIEF REQUESTED)

Plaintiff The Connor Group, A Real Estate Investment Firm, LLC (“The Connor Group”), for its Verified Complaint against Defendant Heather Faulkner (“Faulkner”), states as follows:

PARTIES AND JURISDICTION

1. Plaintiff The Connor Group is an Ohio limited liability company with its headquarters in Montgomery County, Ohio. The Connor Group is a real estate investment firm that engages in the business of management of apartment communities, including several communities in Dayton, Columbus, and Cincinnati, Ohio.

2. Defendant Heather Faulkner ("Faulkner") is a former employee of The Connor Group. Upon information and belief, Faulkner's current address is 1236 Berna Lane, Kettering, Ohio 45429.
3. Jurisdiction and venue of this action is proper in this Court because both parties do business and/or reside in Montgomery County, Ohio. Montgomery County also is the county in which a substantial portion of the events giving rise to the Verified Complaint have occurred.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

4. Faulkner previously was employed by The Connor Group in various management capacities from April 2006 through January 2013. Most recently, she was employed as a senior property manager/profit center manager ("PCM") with responsibility for managing apartment communities in the Cincinnati/Dayton area. She held that position from July 2013 until November 21, 2014, when she voluntarily resigned her employment with The Connor Group.
5. As part of her previous employment with The Connor Group, Faulkner entered into the Employment Agreement attached hereto as Exhibit 1.
6. In paragraph 5 of the Employment Agreement, Faulkner agreed that, during any period of employment with The Connor Group and for a period of two years after her separation from employment with The Connor Group, she would not compete with The Connor Group anywhere within a 50-mile radius of any property owned or managed by The Connor Group or any of its affiliated entities.

7. In paragraph 6 of the Employment Agreement, Faulkner further agreed that, during any period of employment with The Connor Group and after the termination thereof for any reason, she would “not, directly or indirectly, solicit or participate in the solicitation” of The Connor Group’s associates “for purposes of inducing them to leave the employ of [The Connor Group] or to become employed by another entity.”
8. In paragraph 3 of the Employment Agreement, Faulkner acknowledged that she would be given access to and become acquainted with certain confidential information, proprietary information, and trade secrets relating to the business of The Connor Group.
9. Faulkner further agreed, pursuant to paragraph 3 of the Employment Agreement, that she would not reveal, disclose, or use confidential information, proprietary information, and trade secrets of The Connor Group, including, but not limited to, the following: that related to The Connor Group’s systems, policies, procedures, manuals, forms, seminar materials, financial records, reports, financial plans, contracts, customer lists and information, vendor lists, vendor pricing and information, and marketing/customer retention strategies.
10. Faulkner came to The Connor Group with absolutely no experience in the real estate investment and property management industries. (See Affidavit of Larry Connor, Chief Executive Officer of The Connor Group, attached hereto as Exhibit 2, at ¶ 4).
11. During Faulkner’s employment, The Connor Group invested at least 350 hours in training her in the real estate investment and property management industries. (*Id.* at ¶ 5). This included a substantial amount of personal time that The Connor Group’s Chief Executive Officer, Larry Connor, spent with Faulkner to train her in the most important, proprietary aspects of The Connor Group’s business. (*Id.*). In fact, Mr. Connor spent more personal

time training Faulkner than he has with any other Area Manager, Senior Property Manager, District Manager, or Market Regional Head employee of The Connor Group in the approximately 22-year history of the company. (*Id.* at ¶ 6).

12. The training that Mr. Connor personally provided to Faulkner included, but was not limited to, teaching her The Connor Group's proprietary business strategies. (*Id.* at ¶ 7). Those strategies related to, among other things, The Connor Group's proprietary Internet marketing and advertising; resident retention and renewal programs; credit underwriting, procedures, and systems; due diligence, analysis, and property evaluation for acquisition and potential acquisition; expense control systems; and the development of sources of revenue. (*Id.*). These strategies are proprietary and unique to The Connor Group and set it apart from its competitors. (*Id.*).
13. During the week of November 11, 2014, Faulkner gave notice to The Connor Group that she was resigning her employment, and stated that her last day would be November 25, 2014.
14. At the time she tendered her resignation, Faulkner's position of senior PCM put her in charge of two apartment communities in the Dayton/Cincinnati area; placed her in a supervisory role as to other employees; and gave her broad access to confidential information of The Connor Group, including, but not limited to, its resident lists, rental unit pricing, apartment renewal lists, and confidential financial data. (*Id.* at ¶ 8).
15. Before Faulkner's last day at The Connor Group, however, The Connor Group learned that Faulkner was leaving The Connor Group to go work for Monarch Investment and Management Group ("Monarch") in or near the Dayton, Ohio area. (*Id.* at ¶ 9).

16. Monarch is a direct competitor of The Connor Group that owns and/or manages apartment communities in southwest Ohio that are directly in competition with The Connor Group's apartment communities located in the same geographic area. (*Id.*). Monarch's three apartment communities in the southwest Ohio area actually were purchased from The Connor Group. (*Id.*). Monarch, however, also owns and/or manages apartment communities in a number of other areas in which The Connor Group does not have properties at this time, including northern Ohio and several other states.
17. Upon information and belief, Faulkner's employment with Monarch would involve a position and duties substantially similar to the position and duties Faulkner most recently performed for The Connor Group, and would involve her managing the very apartment communities that Monarch purchased from The Connor Group. (See *id.*).
18. Under these circumstances, The Connor Group did not permit Faulkner to return to any Connor Group location after November 21, 2014. Later that same day, The Connor Group advised Faulkner and Monarch in writing of The Connor Group's intent to seek enforcement of Faulkner's Employment Agreement if Faulkner and Monarch continued their current course of action.
19. Faulkner's employment with Monarch is in direct violation of paragraph 5 of the Employment Agreement. Upon information and belief, violations of the other Employment Agreement provisions listed above are inevitable, if they have not occurred already.
20. As a result, The Connor Group seeks appropriate and necessary relief against Faulkner, including a temporary restraining order requiring her to abide by the Employment

Agreement and damages to compensate The Connor Group for any and all past breaches of the Employment Agreement.

21. Additionally, because paragraph 11 of the Employment Agreement entitles The Connor Group to recover all costs and attorney's fees it incurs as a result of Faulkner's breach, The Connor Group seeks its cost and attorney's fees as well.

COUNT I
Breach of Contract

22. The Connor Group incorporates the preceding allegations as if fully rewritten here.
23. As set forth herein, Faulkner has breached and/or inevitably will breach the terms of her Employment Agreement, including, but not limited to, the non-competition provision, the non-solicitation provision, and the provision that prohibits her from disclosing The Connor Group's confidential information, proprietary information, and trade secrets.
24. The aforementioned conduct, including Faulkner's acceptance of employment with Monarch, constitutes material breaches of the terms of the Employment Agreement.
25. The Connor Group has numerous legitimate business interests justifying the restrictions contained in the Employment Agreement, including preventing unfair competition and protecting trade secrets (as defined in Ohio Revised Code § 1333.61) and other valuable confidential and proprietary business information.
26. The restrictions in Faulkner's Employment Agreement are reasonably necessary to protect the legitimate business interests of The Connor Group.
27. As a direct and proximate result of Faulkner's breach of the Employment Agreement, The Connor Group has suffered and continues to suffer damages in an amount to be proven at trial, as well as other irreparable harm for which it has no adequate remedy at law.

COUNT II
Unfair Competition – Inevitable Disclosure

28. The Connor Group incorporates the preceding allegations as if fully rewritten here.
29. Faulkner acquired The Connor Group's confidential information, proprietary information, and trade secrets during the course of her employment with The Connor Group. Upon information and belief, she has and/or inevitably will use said information and trade secrets while employed with Monarch in competition with The Connor Group.
30. Through her actions, Faulkner engaged and/or will inevitably engage in unfair competition to the detriment of The Connor Group, such that merely enjoining her from the use of The Connor Group's confidential information, proprietary information, and trade secrets will not adequately protect The Connor Group. Unless Faulkner is also enjoined from working for Monarch within the designated geographic area(s) set forth in the Employment Agreement, she will continue to engage in unfair competition with The Connor Group.
31. As a direct and proximate result of Faulkner's conduct, The Connor Group has suffered and continues to suffer damages in an amount to be proven at trial, as well as other irreparable harm for which it has no adequate remedy at law.

COUNT III
Costs and Attorney's Fees

32. The Connor Group incorporates the preceding allegations as if fully rewritten here.
33. Paragraph 11 of the Employment Agreement provides that The Connor Group is entitled to recover from Faulkner all costs and attorney's fees it incurs as a result of her breach of the Agreement.

34. As set forth in more detail in the preceding allegations, Faulkner currently is in breach of her Employment Agreement for, among other reasons, accepting employment with Monarch, which is a direct competitor of The Connor Group, in the Dayton, Ohio area.
35. As a result of Faulkner's breach(es) of the Employment Agreement, The Connor Group has incurred—and will continue to incur—attorney's fees and costs, including those related to this lawsuit, that it is entitled to recover from Faulkner.

COUNT IV
Injunctive Relief

36. The Connor Group incorporates the preceding allegations as if fully rewritten here.
37. Unless enjoined, Faulkner's wrongful conduct will continue.
38. Unless enjoined, Faulkner's conduct will cause immediate and irreparable harm to The Connor Group.
39. The Connor Group has a reasonable probability of success on the merits of this action.
40. The Connor Group has no adequate remedy at law because not all of the harm it has suffered, is suffering, and will continue to suffer can be definitely determined and reduced to damages. Nor will damages related to certain wrongful conduct prevent further wrongful conduct that is ongoing or that may occur in the future.
41. The granting of injunctive relief is necessary and will not harm third parties. Injunctive relief also furthers the public interest in preventing unfair competition and protecting businesses' confidential information, proprietary information, and trade secrets.
42. The balance of the equities strongly favors issuance of the request injunctive relief in The Connor Group's favor against Faulkner.

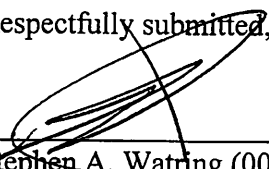
WHEREFORE, The Connor Group prays:

- A. That a temporary restraining order be issued to restrain Faulkner, and others acting in concert with her, from the following for a period of 14 days:
1. Engaging, directly or indirectly, individually or as an agent, associate, officer, director, shareholder, partner, or in any other capacity whatsoever, in any business which is engaged in the same or similar business as The Connor Group or any of its affiliated entities (including, but not limited to, Monarch), within a 50 mile radius of any property owned or managed by The Connor Group or any of its affiliated entities;
 2. Directly or indirectly soliciting or participating in the solicitation of other associates of The Connor Group for the purpose of inducing them to leave the employ of The Connor Group or to become employed by another entity, including, but not limited to, Monarch;
 3. Directly or indirectly revealing, divulging, or making known to any person, corporation, firm or entity (including, but not limited to, Monarch), any confidential information, proprietary information, and trade secrets of The Connor Group (including, but not limited to, that related to The Connor Group's systems, policies, procedures, manuals, forms, seminar materials, financial records, reports, financial plans, contracts, customer lists and information, vendor lists, vendor pricing and information, and marketing/customer retention strategies), either for her own benefit or the benefit of others, including, but not limited to, Monarch;
 4. Soliciting The Connor Group's past, current, and prospective customers, vendors, and investors;

5. Engaging in unfair competition with The Connor Group through the inevitable use and disclosure of The Connor Group's confidential information, proprietary information, and trade secrets; and
 6. Destroying or deleting any documents or electronically stored information, including that contained on any computers, computer drives or disks, or other electronic devices (including, but not limited to, laptops, tablets, and smart phones) owned or accessed by Faulkner at any time that may contain any information related to The Connor Group; any of The Connor Group's past, present, or prospective customers, vendors, or investors; any of The Connor Group's current or former associates; Faulkner's employment by or resignation from The Connor Group; Faulkner's employment by Monarch; and any other information relating to The Connor Group in any way;
- B. That after hearing, the temporary restraining order be converted to a preliminary injunction;
 - C. That after trial, such injunction be made permanent;
 - D. For an order requiring Faulkner to return to The Connor Group any and all documents and materials that reflect or contain The Connor Group's confidential and proprietary information and trade secrets;
 - E. That The Connor Group be awarded damages, including interest, against Faulkner in an amount in excess of \$25,000;
 - F. That The Connor Group be awarded pre- and post-judgment interest as provided by law;
 - G. That Faulkner be ordered to pay the costs of this action; and

- H. That The Connor Group be granted such other and further relief, at law or in equity, as this Court deems just and appropriate.

Respectfully submitted,




Stephen A. Watring (0007761)
Amy C. Mitchell (0069548)
Matthew J. Bakota (0079830)
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110 N. Main Street, Suite 1000
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Telephone: (937) 223-6003
Facsimile: (937) 223-8550
saw@dmfdayton.com
acm@dmfdayton.com
mjb@dmfdayton.com

VERIFICATION

I, Samuel E. Dowse, In-House Counsel for The Connor Group, A Real Estate Investment Firm, LLC, on behalf of the corporation, do hereby swear and affirm that I have read the foregoing Verified Complaint and that the allegations contained herein are true to the best of my knowledge, information, and belief.

The Connor Group, A Real Estate
Investment Firm, LLC

By: 
Samuel E. Dowse

Its: In-House Counsel

STATE OF OHIO:

COUNTY OF MONTGOMERY: SS.

Sworn to and subscribed before me, a Notary Public in and for the state of Ohio, by the above, Samuel E. Dowse of The Connor Group, A Real Estate Investment Firm, LLC, on behalf of the corporation, this 26th day of November, 2014, for the uses and purposes set forth herein.



ERICK V SOMMERS, Notary Public
In and for the State of Ohio
My Commission Expires April 30, 2019


Notary Public

EMPLOYMENT AGREEMENT FORM

This Agreement is entered into between The Connor Group, 1255 E. Alex-Bell Road, Centerville, Ohio 45459, (hereinafter "EMPLOYER"), and Heather Faulkner (hereinafter "ASSOCIATE"). EMPLOYER hereby agrees to employ and/or continue the employment of ASSOCIATE, subject to the terms and conditions set forth below.

1. **COMPENSATION.** In consideration for such employment and the promises set forth herein, EMPLOYER shall accord to said ASSOCIATE such salary and other benefits as shall from time to time be agreed upon between the parties.

2. **DUTIES.** ASSOCIATE shall utilize their best efforts of performing services for the EMPLOYER as a _____ as well as such other duties as they are from time to time directed to perform. ASSOCIATE agrees to devote their full time and energy to performing their duties for EMPLOYER in exchange for the compensation they will receive. ASSOCIATE agrees to abide by all of EMPLOYER's rules, policies, procedures, practices, and directives. ASSOCIATE will do nothing which competes with EMPLOYER or which may cause a conflict of interest with the EMPLOYER. ASSOCIATE agrees that they will not seek, nor undertake any other employment while in the employ of the EMPLOYER.

3. **CONFIDENTIAL INFORMATION.** It is understood between the parties that, during the term of ASSOCIATE's employment, ASSOCIATE will have access to and become acquainted with certain confidential information, proprietary information, and trade secrets relating to the business of EMPLOYER. Such confidential information, proprietary information, and trade secrets include but are not limited to EMPLOYER's systems, policies, procedures, manuals, forms, seminar materials, financial records, reports, financial plans, contracts, customer lists and information, vendor lists, vendor pricing and information, and marketing/customer retention strategies. ASSOCIATE expressly covenants and agrees that they will not at any time during their employment, or after the termination thereof for any reason, either directly or indirectly, reveal, divulge, or make known to any person, corporation, firm or entity, any such information, or use such information, either for their own benefit or the benefit of others.

4. **EMPLOYER PROPERTY.** ASSOCIATE further agrees that they will not remove from the EMPLOYER'S premises any files, records, reports, manuals, documents, drawings, specifications, equipment or similar items, including any copies, facsimiles, or reproductions thereof, owned by or relating to the business of EMPLOYER, except where required for the performance of ASSOCIATE'S duties for EMPLOYER. All such materials shall be returned to EMPLOYER in a timely fashion, and in any event, upon separation of ASSOCIATE from employment. This paragraph applies to all such materials coming into the possession of ASSOCIATE, including but not limited to materials prepared and produced by ASSOCIATE.

5. **ASSOCIATE COMPETITION.** ASSOCIATE further agrees that, during the term of their employment, and for a period of two years after termination of said employment for any reason, they shall not engage, directly or indirectly, individually or as an agent, associate, officer, director, shareholder, partner, or in any other capacity whatsoever, in any business which is engaged in the same or similar business as EMPLOYER or any of its affiliated entities, within a 50 mile radius of any property owned or managed by EMPLOYER or any of its affiliated entities.

6. **SOLICITATION OF ASSOCIATES.** ASSOCIATE further agrees that, during the term of their employment, and after the termination thereof for any reason, they shall not, directly or indirectly, solicit or participate in the solicitation of other associates of EMPLOYER for the purpose of inducing them to leave the employ of EMPLOYER or to become employed by another entity.

7. **SOLICITATION OF CUSTOMERS.** ASSOCIATE further agrees that, during the term of their employment, and after the termination thereof for any reason, they shall not, directly or indirectly, solicit or participate in the solicitation of any actual or prospective customers or tenants of EMPLOYER, for the purposes of inducing them to discontinue doing business with EMPLOYER or for purposes of inducing them to do business with any of EMPLOYER's competitors. For purposes of this paragraph, a prospective customer or tenant shall include any customer or tenant who has had contact with EMPLOYER for the purposes of potentially becoming a customer or tenant.

8. **REPAYMENT OF OUTSIDE TRAINING COSTS.** Should the ASSOCIATE terminate their employment within the first 12 months of their hire date, the ASSOCIATE agrees to reimburse the EMPLOYER for any direct costs incurred for outside training of the ASSOCIATE (outside training defined as seminars or other training programs conducted on the fee-paid basis by organizations other than the EMPLOYER).

9. **EMPLOYER'S RIGHTS.** Nothing within this Agreement shall be construed to restrict or modify any rights of EMPLOYER to determine its policies, rules of conduct, and practices, and discipline ASSOCIATE for perceived

EXHIBIT

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violations thereof. EMPLOYER shall have absolute discretion in making assignments of work and directing the time and manner of ASSOCIATE's work.

10. **SUCCESSORS.** This Agreement shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, executors, administrators, successors, and assigns.

11. **ENFORCEMENT.** This Agreement shall be enforceable in law or in equity. In the event that this Agreement is breached by ASSOCIATE, EMPLOYER shall be entitled to recover from ASSOCIATE all costs and attorney's fees incurred by EMPLOYER as a result of or arising out of said breach, in addition to all other remedies provided in law or in equity.

12. **GOVERNING LAW.** This Agreement shall be construed under the laws of the State of Ohio.

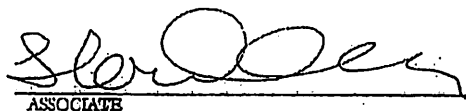
13. **TERMINATION.** Notwithstanding anything contained herein, either ASSOCIATE or EMPLOYER may terminate the employment relationship between the parties at any time, and for any reason, with or without notice.

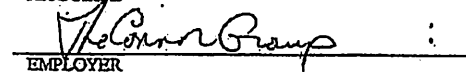
14. **ENTIRE AGREEMENT / MODIFICATION.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements, understandings, promises, and representations made by either party to the other concerning such subject matter. This Agreement may not be modified in any manner except by an instrument in writing signed by both parties. A waiver of any provision of this Agreement in the event of breach thereof shall not constitute a waiver of that or any other provision in the event of any subsequent breach or breaches.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the _____ day of _____



Witness



ASSOCIATE


EMPLOYER

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

The Connor Group, A Real Estate
Investment Firm, LLC,

Plaintiff,

v.

Heather Faulkner,

Defendant.

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: Case No.:

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: Judge:

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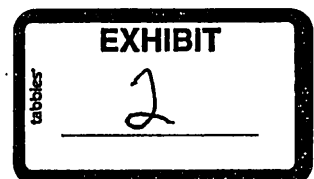
AFFIDAVIT OF LARRY CONNOR

COUNTY OF MONTGOMERY)
STATE OF OHIO)

SS:

Larry Connor, being first duly cautioned and sworn, hereby deposes and says as follows,
to wit:

1. I am the Chief Executive Office of The Connor Group, A Real Estate Investment Firm, LLC ("The Connor Group"), which I founded approximately 22 years ago.



2. The Connor Group is a real estate investment firm with its headquarters in Miamisburg, Ohio. The Connor Group engages in the business of management of apartment communities, including several communities in Dayton, Columbus, and Cincinnati, Ohio.
3. I have personal knowledge of the facts below based on my position within The Connor Group.
4. Ms. Faulkner came to The Connor Group with absolutely no experience in the real estate investment and property management industries.
5. In total, during Ms. Faulkner's employment The Connor Group invested at least 350 hours in training her in the real estate investment and property management industries. This included a substantial amount of time that I personally spent with Ms. Faulkner to train her in the most important, proprietary aspects of The Connor Group's business.
6. Indeed, I spent more personal time training Ms. Faulkner than I have with any other Area Manager, Senior Property Manager, District Manager, or Market Regional Head employee of The Connor Group in the approximately 22-year history of the company.
7. The training I personally provided to Ms. Faulkner included, but was not limited to teaching Ms. Faulkner The Connor Group's proprietary business strategies. Those strategies related to, among other things, The Connor Group's proprietary Internet marketing and advertising, resident retention and renewal programs, credit underwriting, procedures and systems, due diligence, analysis and property evaluation for acquisition, potential acquisition, expense control systems, and the development of sources of revenue. These strategies are proprietary and unique to The Connor Group, and set us apart from its competitors.

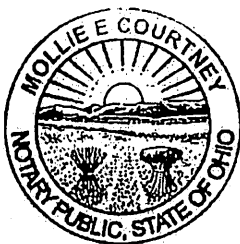
8. At the time she resigned her employment with The Connor Group during the week of November 11, 2014, Ms. Faulkner held the position of Senior Profit Center Manager ("PCM") and was in charge of two apartment communities in the Dayton/Cincinnati area; supervised employees; and had broad access to confidential information of The Connor Group, including resident lists, rental unit pricing, apartment renewal lists and confidential financial data.
9. After Ms. Faulkner tendered her resignation notice, but before her last day of employment with The Connor Group, The Connor Group learned that Ms. Faulkner resigned to accept a similar position with many of the same duties with Monarch Investments Management Group ("Monarch"). Monarch is a direct competitor of The Connor Group in Ohio and recently has purchased three apartment communities in southwest Ohio from The Connor Group. With Monarch, Ms. Faulkner would be managing those same communities in direct competition with The Connor Group.

Further Affiant sayeth naught.

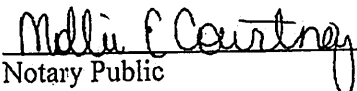

Larry Connor

Sworn to before me and subscribed in my presence this 25 day of November, 2014 by

Larry Connor.



MOLLIE E. COURTNEY
NOTARY PUBLIC
STATE OF OHIO
MONTGOMERY COUNTY
My Comm. Expires
May 23, 2015


Notary Public
My commission expires: May 23, 2015